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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR
M.A. NO. 1392/2005

APPELLANTS CLAIMANTS :

1. Tejram Sinha, aged about 40 yrs, S/o Mangtooram
2. Kumari Asha, aged about 14 yrs, D/o Tejram Sinha,

Above both R/o of Gram : Silghat Tahsil : Kurud, Distt. : Dhamtari.

VERSUS

RESPONDENTS NON CLAIMANTS :

1. Khilesh Kumar, aged about 40 yrs. S/o Sahdev Sahu, R/o Vill. : Borzhara, Tah.: Kurud, Distt. : Dhamtari. (C.G.)
2. Gyanchand, aged about 36 years, S/o Mangalchand, Jain, R/o Vill. Gatapar, Tahsil: Kurud, Distt. : Dhamtari.
3. Jamnalal, aged About 63 years, S/o Karnodan Jain, R/o Village : Borzhara, Tahsil : Kurud, Distt. : Dhamtari.
4. The Oriental Insurance Company Ltd. Dhamtari (C.G.)

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Present:

Shri K.R.Nair, counsel for the appellants.

Shri A.K. Athaley, counsel for the respondent No.4/Insurer.

JUDGMENT

(10th July 2007)

Dhirendra Mishra, J

The appellants/claimants have preferred this appeal against the award dated 24th August 2005 passed by learned Additional Motor Accident Claims Tribunal, Dhamtari in claim case No. 622/2004 whereby a sum of Rs.75,000/- has been awarded to them as compensation for the death of Sarswati Bai who died on 21.9.2004 in a motor vehicle accident involving tractor/trolley owned by respondent No. 3 Jamnalal and driven by respondent No. 1 Khilesh Kumar at the relevant time.

Learned counsel for the appellants submits that the learned claims Tribunal has restricted the amount of compensation to minimum Rs.75,000/- on the ground that the appellants were not dependant upon deceased Sarswati Bai and for the purposes of computing compensation multiplier system has not been adopted on the basis of the notional income of the deceased.

On the other hand, learned counsel for respondent No.4/insurance company submits that the reasons assigned by learned claims Tribunal for not resorting to multiplier system is in

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accordance with facts of the present case and no interference is called for.

I have heard learned counsel for the parties and perused the impugned award as also the oral and documentary evidence available on record of the claims Tribunal.

Learned claims Tribunal by the impugned award has held that the deceased died as a result of accident which was caused because of negligent driving on the part of respondent No. 1 and the respondents have failed to prove that the vehicle in question was being driven in breach of any policy condition. However, learned claims Tribunal has restricted the claim to the minimum on the ground that the appellants/claimants were not dependant upon deceased Sarswati Bai. The view taken by learned Tribunal is contrary to the established law in this regard as even the housewives who are not otherwise engaged in any gainful employment contribute to the family by rendering their services in home and therefore, where income of the deceased has not been established it was proper for the learned Tribunal to assess the compensation by taking notional income of the deceased at Rs. 15,000/- per annum as described in Schedule -2 appended with Section 163-A of the Motor Vehicle Act, 1988.

P.T.O.

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आदेश पत्रक (पूर्वानुबद्ध)

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For the aforesaid reasons, the impugned award cannot be sustained and the compensation payable to the appellants/claimants is assessed by taking notional income of the deceased at Rs.15,000/- per annum and after making allowance of 1/3rd therefrom, which she would have spent on her had she been alive, the total dependency is assessed at Rs.10,000/- per annum. From the record it appears that the deceased was 35 years old, in such circumstances, the appropriate multiplier would be 16.

In the result, the appeal is allowed. The appellants/claimants are awarded a sum of Rs. 1,60,000/- towards loss of dependency, an additional sum of Rs.5,000/- towards love & affection and Rs. 10,000/- towards loss of consortium, in addition to Rs.5,000/- already awarded by learned claims Tribunal towards funeral expenses. Thus, the appellants/claimants are awarded a total sum of Rs.1,80,000/-, out of which Rs.75,000/- has already been awarded by learned Tribunal, therefore, the appellants/claimants are hereby awarded an additional sum of Rs.1,05,000/-. Respondent No. 4 shall deposit the additional amount with the claims Tribunal within a period of 30 days from today.

Sd/-
DHIRENDRA MISHRA
Judge

P.T.O.